REMARKS

This amendment is submitted along with a request for a two month extension, a Request for Continued Examination and appropriate fees in reply to the Office Action dated March 20, 2009. Claims 2-4, 7-11, 14, 15, 19-22 and 24-29 currently stand rejected. Applicant has amended independent claims 21, 24, 26 and 28 for clarity. Claims 4, 7 and 11 have been amended to correct minor defects. New claims 30-34 have been added to define patentable aspects of the present invention. No new matter has been added by the amendment.

In light of the amendment and the remarks presented below, Applicant respectfully requests reconsideration and allowance of all now-pending claims of the present application.

Claim Rejections - 35 USC §112

Claims 2-4, 7-11, 14, 15, 19-22 and 24-29 currently stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In particular, the Office Action asserts that the phrase, "independent of an input from a user of the mobile station" lacks support in the specification. Although Applicant respectfully asserts that the above quoted phrase is supported in the specification at least by virtue of the previously discussed reasons, in order to advance prosecution, Applicant has nonetheless deleted this phrase from each independent claim. Accordingly, Applicant respectfully submits that the rejections of independent claims 21, 24, 26 and 28, and by virtue of dependency also claims 2-4, 7-11, 14, 15, 19, 20, 22, 25, 27 and 29 under 35 U.S.C. §112, first paragraph, are overcome.

Claims 7-11 were also rejected under 35 U.S.C. §112, second paragraph, as being indefinite due to errors related to preambular recitations. Applicant has amended the preambles of claims 7 and 11 and therefore submits that the rejections of claims 7, 11 and claims 8-10, which depend from claim 7, under 35 U.S.C. §112, second paragraph, are overcome.

Claim Rejections - 35 USC §103

Claims 2-4, 7-11, 14, 15, 19-22 and 24-29 currently stand rejected under 35 U.S.C. §103(a) as being unpatentable over to Vanttila et al. (U.S. Patent No. 5,794,142, hereinafter "Vanttila") in view of Hansson (U.S. Patent No. 6,023,620).

A. The independent claims are patentable.

Applicant respectfully notes that the claimed invention recites that the operational parameter downloaded is repeatedly used pursuant to subsequent communications. In this regard, for example, independent claim 21 recites, *inter alia*, establishing a direct data call connection directly with the mobile station, the direct data call connection, once formed, for downloading the at least the first mobile-station operational parameter, **the first mobile-station operational parameter being *repeatedly* used pursuant to subsequent communications.**

The present application is directed to a technique for downloading an operational parameter to a mobile-station. As its name suggests, an operational parameter is a parameter utilized by the mobile-station during subsequent operation, such as subsequent communication. In one embodiment, a network part includes a download parameter initiation signal generator for notifying a network node and, more particularly, for notifying a download parameter request signal generator of the network node, of an operational parameter to be updated or otherwise provided to the mobile station. The download parameter request signal generator of the network node then transmits a short message service (SMS) message to the mobile-station notifying the mobile-station of the operational parameter that could be updated. As described, for example, at page 11, lines 4-8 and page 6, lines 7-9 of the specification as filed, when the message is detected, a direct call connection is established between the network part in the form of a data call connector and the mobile-station in which the operational parameter is provided to the mobile-station for use during subsequent communications. As further indicated at page 3, lines 6-8 of the specification as filed, in some instances, the operational parameter is necessary to permit continued operation of the mobile station. Thus, the use of the operational parameter during subsequent operations implies, as is now explicitly stated, that the use of the operational parameter itself is repeated. In other words, the operational parameter is not merely used one time to execute a particular function, but is instead used repeatedly during subsequent operations.

Notably, in the "Response to Arguments" section at page 8 of the Office Action, the Examiner directs Applicant's attention to col. 5, lines 13-24 of Vantilla and relies on this passage of Vantilla as disclosing repeated use of the feature code or identification code of Vantilla. The cited passage of Vantilla only relates to, as described above, the provision of a message used to

activate a menu feature. The Office Action states that "the new menu will be repeatedly used pursuant to subsequent communications" and concludes that by virtue of this fact, Vantilla "still reads on the claimed feature." Applicants respectfully disagree. The menu or menu feature of Vantilla, which may logically be repeatedly used in the future, is not an operational parameter. Instead, a single use item (the feature code or identification code) that the Office Action apparently correlates to the claimed operational parameter enables the menu feature to be activated. After activation, there is no repeated use of the feature code or identification code. The feature code or identification code has performed its one-time function of activating the menu feature and the menu feature is thereafter useable. However, even if the menu feature itself is used repeatedly in the future, this does not change the fact that the feature code or identification code is not used repeatedly pursuant to subsequent communications of the mobile station as provided in the claimed invention.

In more detail, Vanttila describes a technique for adding to or changing the functionality of a mobile station by transmitting an SMS message to the mobile station which identifies the function to be added or changed, as well as any corresponding change to the screen displays. In particular, Vanttila describes a technique in which features that are pre-stored within a radiotelephone can be activated or deactivated as a result of communication between the radiotelephone and an operator's site. As shown in Figures 3A and 3B of Vanttila, a plurality of features are pre-stored by the radiotelephone with the features capable of either being enabled or disabled. In order to enable any previously disabled feature or to disable any previously enabled feature, SMS messages are transmitted between the operator's site and the radiotelephone to appropriately enable/disable the respective feature(s). As indicated by Figures 4 and 5, this exchange of SMS messages can be initiated by either the radiotelephone or the operator.

In this regard, Vanttila discloses the provision of the feature code and the identification code via an SMS message which identifies a particular feature to enable or disable. The feature code or identification code are therefore one time use codes that enable or disable the corresponding feature thereafter. Thus, in the techniques disclosed in Vanttila, the functionality of a mobile station is enabled or disabled via a single use message and the functionality is set in accordance with the instructions of the last message until another message changes the

enablement state of the corresponding feature. The message, and the feature code or identification code are not used again after the activation is completed. Accordingly, Vantilla fails to teach or suggest the downloading of an operational parameter that is repeatedly used pursuant to subsequent communications.

Hansson describes a technique for providing a mobile station with new operating software. In this regard, Hansson describes the transmission of an SMS message to the mobile terminal indicating that new operating software is available and, if the mobile terminal accepts, the subsequent download of the operating software during a call established with the mobile station (col. 2, lines 56-57 and col. 3, lines 48-52). As such, Hansson describes a technique in which the software that controls the operation of a cellular telephone is to be updated. As discussed previously during the prosecution of the present application, the downloading of updated software is distinct from the operational parameters downloaded to the mobile-station for repeated use during subsequent communications as set forth by independent claim 21.

Since none of the cited references alone teach or suggest establishing a direct call to download an operational parameter **being repeatedly used pursuant to subsequent communications** as claimed in independent claim 21, any combination of the cited references likewise fails to render independent claim 21 obvious for at least the same reasons described above. Independent claims 24, 26 and 28 (and new claim 30) also include a similar recitation to that of independent claim 21 with respect to establishing a direct call to download an operational parameter **being repeatedly used pursuant to subsequent communications**. Accordingly, independent claims 24, 26 and 28 are patentable for at least the same reasons that independent claim 21 is patentable.

B. The dependent claims are patentable.

Claims 2-4, 7-11, 14, 15, 19, 20, 22, 25, 27 and 29 (and new dependent claims 31-34) depend either directly or indirectly from respective ones of independent claims 21, 24, 26, 28 and 30, and thus include all the recitations of their respective independent claims. Therefore, dependent claims 2-4, 7-11, 14, 15, 19, 20, 22, 25, 27, 29 and 31-34 are patentable for at least those reasons given above for independent claims 21, 24, 26, 28 and 30.

Despite being patentable by virtue of dependence from patentable independent claims, at least some of the dependent claims include yet further patentable features. For example, claims 31-34 each describe the use of the direct call connection to communicate device information regarding the mobile station to the network part. Moreover, claims 31-34 also provide that the network part is enabled to determine or otherwise determines the operations that are to be performed based on the device information **prior to** providing the mobile-station operational parameter. Thus, embodiments of the present invention not only provide for the download of some data to the mobile station, but further provide that information regarding operations to be performed at the mobile station based on device information about the mobile station is provided to the network part prior to the operational parameter being downloaded. As such, embodiments of the present invention relate to a real-time information exchange regarding mobile station operations via the direct data call.

As indicated above, the Office Action admits that Vantilla fails to disclose any direct connection between the mobile station and the network part, so Vantilla necessarily fails to teach or suggest the above described features. To cure the admitted deficiency of Vantilla in this regard, the Office Action relied upon Hansson. Hansson discloses that a cellular telephone may receive an offer to update software. To accept the offer, the cellular telephone user presses one or more keys (col. 3, lines 48-50) to send an SMS indicating acceptance. The SMS includes an acceptance code and the phone number of the cellular telephone (col. 3, lines 53-55). The server receives the SMS and instructs the cellular telephone to wait (col. 3, lines 55-58). The cellular telephone acknowledges the command and then receives the download (col. 3, lines 59-64). Accordingly, the cellular telephone of Hansson never provides device information that provides a basis for determining the operations that are to be performed. Instead, the only information provided is an acceptance code and a telephone number. Thus, Hansson also fails to teach or suggest that the network part is enabled to determine or otherwise determines the operations that are to be performed based on the device information **prior to** providing the mobile-station operational parameter as provided in claims 31-34. Since both Hansson and Vantilla fail to disclose the above described features, any combination of Hansson and Vantilla also fails in this regard.

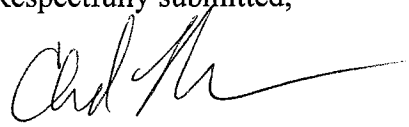
Accordingly, for at least the reasons provided above, Applicant respectfully submits that the rejections of claims 2-4, 7-11, 14, 15, 19-22 and 24-29 are overcome and that the pending claims are patentable over Vantilla and Hansson, alone or in combination.

CONCLUSION

In view of the amended and newly presented claims and the remarks presented above, it is respectfully submitted that all of the claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON June 11, 2009.

LEGAL02/31347799v1